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FISCAL IMPACT STATEMENT

LS 6754

BILL NUMBER: HB 1218

NOTE PREPARED: Jan 1, 2012

BILL AMENDED:

SUBJECT: Scrapping and Liens on Motor Vehicles.

FIRST AUTHOR: Rep. Kirchhofer

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- (1) Provides that a person must have a retail merchant's certificate to seek a lien on a motor vehicle.
- (2) Requires that a copy of a notice to hold a lien upon a motor vehicle must be sent to the last registered owner of the motor vehicle by certified mail.
- (3) Provides that if a motor vehicle is put up for sale at an auction to satisfy a lien, the auction must occur at an auction house and a notice of the auction must be sent by certified mail to the last registered owner of the motor vehicle at least seven days before the auction.
- (4) Provides that a disposal facility or scrap metal processor or an agent of a disposal facility or scrap metal processor who knowingly, intentionally, or recklessly buys a motor vehicle without accepting a sheriff's certificate of authority or a certificate of title for the motor vehicle commits a Class D felony.
- (5) Provides that the term valuable metal dealer, for purposes of regulation of valuable metal dealers, does not include a person who, after purchase, has been given a sheriff's certificate of authority concerning a motor vehicle.

Effective Date: July 1, 2012.

Explanation of State Expenditures: Under the bill, disposal facility agents and scrap metal processors who knowingly, intentionally, or recklessly buy scrapped motor vehicles without accepting a sheriff's certificate of authenticity or a certificate of title commit a Class D felony. Currently, there is no penalty if disposal facility agents or scrap metal processors fail to collect one of these documents.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class

A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$18,836 in FY 2011. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,318 annually, or \$9.09 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$75,591 in FY 2011. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

This bill also has the potential to increase the workload of the Bureau of Motor Vehicles (BMV) to produce duplicate certificates of title to facilitate the sale of scrapped motor vehicles. The number of instances where a scrapped motor vehicle is sold without a certificate of title is indeterminable. For this reason, increase in BMV workload is also indeterminable.

Explanation of State Revenues: By requiring that an individual hold a retail merchant's license as a condition of requesting a lien on a motor vehicle, this bill may increase the number of requests for retail merchant's license in the state. Currently, the Department of State Revenue (DOR) charges a \$25 fee for each business listed on a lien application. To the extent this bill increases the number of individuals who apply for a retail merchant's license, the DOR will experience an increase in revenue from application fees. Any increase in revenue is expected to offset any increase in workload to process additional retail merchant's license applications.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$5), judicial salaries fee (\$19), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: This bill has the potential to increase the workload of county sheriffs to produce a certificate of authority to facilitate the sale of a scrapped motor vehicle. The number of instances where a scrapped motor vehicle is sold without a certificate of authority is indeterminable. For this reason, increase in county sheriff workload is also indeterminable.

If more defendants are detained in county jails prior to their court hearings for Class D felonies, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: This bill only allows individuals who hold a retail merchant's license the ability to seek a lien on a motor vehicle. This bill may decrease the number of individuals who currently seek liens against vehicles.

Currently, to request a lien, an individual must file in the recorder's office of the county where the towing, repair, service, or maintenance work was performed or the storage, supplies, or accessories were furnished. To the extent this bill decreases the number of individuals who request liens through the county recorder's office, county workload will decrease.

Counties currently collect fees for filing a mechanic's lien. This fee varies between counties and depends on the total number of pages included in the lien application. To the extent this bill decreases the number of lien applications in the state, local revenue from court fees will decrease.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction; BMV; DOR.

Local Agencies Affected: Trial courts; local law enforcement agencies; county sheriffs; county recorder offices.

Information Sources: Indiana Sheriffs' Association; Department of Correction.

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